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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/761,189	01/18/2001	Motoharu Kasuya	2001-0035A	5986

513 7590 05/22/2002

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EXAMINER

MAI, TRI M

ART UNIT	PAPER NUMBER
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3727

DATE MAILED: 05/22/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/761,189

Applicant(s)

KASUYA, MOTOHARU

Examiner

Tri M. Mai

Art Unit

3727

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 6-13 is/are pending in the application.
- 4a) Of the above claim(s) 7 and 8 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 6 and 9-13 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All   b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

**DETAILED ACTION**

***Election/Restrictions***

1. Claims 7 and 8 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected invention as set forth in the previous Office Action.

***Claim Rejections - 35 USC § 102***

2. Claim 6 is rejected under 35 U.S.C. 102(b) as being anticipated by Moore (1685370). Moore teaches a cylindrical body having plurality of wound layers and at least a curled portion. The curled portion is angled at portions 24 (see Figures 2-4) respectively.

With respect to the curled portion being formed prior to the curing of the adhesive, the method as set forth does not impart any structure over the body of Moore.

Furthermore, the patentability of the product does not depend on its method of production. If the product in the product - by - process claim is the same as or obvious from a product of the prior art, the claim is unpatentable even though the prior product was made by a different process." In re Thorpe , 227 USPQ 964, 966 (Fed. Cir. 1985). See MPEP 2113.

3. Claims 6, and 9-13 are rejected under 35 U.S.C. 102(b) as being anticipated by Bodor (1,912,884). Bodor teaches a cylindrical body having plurality of wound layers and at least a curled portion. The curled portion is angled at portion 24 (see Figure 6).

With respect to the curled portion being formed prior to the curing of the adhesive, the method as set forth does not impart any structure over the bodies of Bodor.

Furthermore, the patentability of the product does not depend on its method of production. If the product in the product - by - process claim is the same as or obvious from a

Art Unit: 3727

product of the prior art, the claim is unpatentable even though the prior product was made by a different process." In re Thorpe , 227 USPQ 964, 966 (Fed. Cir. 1985). See MPEP 2113.

Regarding claim 9, the portion 18 is rested on flange 15 and the other closure 20.

The term "pressed curled portion" does not impart any structure over the curl 17 in Bordor. In the very least when portion 17 is curled, the materials are pressed together.

4. Claims 6, and 9-13 are rejected under 35 U.S.C. 102(b) as being anticipated by Brooks (1462443). Brook teaches a cylindrical body having plurality of wound layers and at least a curled portion. The curled portion is slightly angled at portion 4 looking from the exterior of the container.

With respect to the curled portion being formed prior to the curing of the adhesive, the method as set forth does not impart any structure over the body of Brooks.

Furthermore, the patentability of the product does not depend on its method of production. If the product in the product - by - process claim is the same as or obvious from a product of the prior art, the claim is unpatentable even though the prior product was made by a different process." In re Thorpe , 227 USPQ 964, 966 (Fed. Cir. 1985). See MPEP 2113.

Regarding claim 9, note the closure 6 for closing the opening.

The term "pressed curled portion" does not impart any structure over the curl portion in Brooks.

### ***Claim Rejections - 35 USC § 103***

5. Claims 6, and 9-13 are again rejected under 35 U.S.C. 103(a) as being unpatentable over either Bodor or Brooks in view of Carpenter (2,641,827). Carpenter further teaches that it is known in the art to curl the ends before the adhesive is set (col. 3, lines 15-23). It would have

Art Unit: 3727

been obvious to one of ordinary skill in the art to curl the ends before the adhesive is set in either Bodor or Brooks as taught by Carpenter to facilitate the manufacturing of containers easily.

***Response to Arguments***

6. Applicant's arguments filed 3/4/02 have been fully considered but they are not persuasive. In the Brooks reference, it is noted that the claimed angle portions do not read over the slightly protruded portions on the two ends of Brooks.

Other arguments are moot in view of the Bodor and Moore references.

***Conclusion***

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tri M. Mai whose telephone number is (703)308-1038. The examiner can normally be reached on 7:30am-5:00pm.

Art Unit: 3727

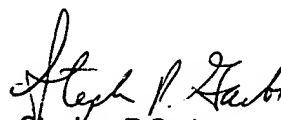
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lee W Young can be reached on (703)308-2572. The fax phone numbers for the organization where this application or proceeding is assigned are (703)305-3579 for regular communications and (703)305-3579 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)308-1148.

Tri M. Mai  
Examiner  
Art Unit 3727



May 20, 2002



Stephen P. Garbe  
Primary Examiner